

Union Calendar No. 384

105TH CONGRESS
2^D SESSION

H. R. 2993

[Report No. 105-678]

To provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1997

Mr. HEFLEY introduced the following bill; which was referred to the Committee on Resources

AUGUST 5, 1998

Additional sponsors: Mr. WHITFIELD, Mr. DUNCAN, and Mr. SKAGGS

AUGUST 5, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. FEE AUTHORITY AND REPEAL OF EXEMPTION.**

2 (a) **AUTHORITY.**—Under rules promulgated by the
 3 Secretary of the Interior (hereinafter in this Act referred
 4 to as the “Secretary”), the Secretary shall collect a fee
 5 from each person making any motion picture, television
 6 production, or soundtrack for commercial purposes on any
 7 area administered by the U.S. Fish and Wildlife Service
 8 or the National Park Service, except as provided in sub-
 9 section (b). The fee shall be established by the Secretary
 10 on a case by case basis at the fair market value, as deter-
 11 mined by the Secretary, of the use of such area for such
 12 purpose, except that no fee shall be established at a level
 13 less than the direct and indirect costs to the Government
 14 for the use of the area, including any necessary costs of
 15 clean-up and restoration.

16 (b) **NEWS.**—No fee shall be collected under sub-
 17 section (a) for any bonafide newsreel or news television
 18 production.

19 (c) **EXISTING REGULATIONS.**—The exemption from
 20 fees set forth in the Secretary’s regulations contained in
 21 paragraph (1) of section 5.1(b) of title 43 of the Code
 22 of Federal Regulations shall cease to apply upon the effec-
 23 tive date of regulations under subsection (a). Nothing in
 24 this Act shall be construed to affect the provisions of the
 25 regulations set forth in part 5 of title 43 of the United
 26 States Code other than paragraph (1) thereof.

1 (d) **PROCEEDS.**—Proceeds from the fees collected
 2 under this section shall be distributed in the same manner
 3 as the recreation demonstration fees are distributed under
 4 subsection (c) of section 315 of the Act of April 26, 1996
 5 entitled “An Act making appropriations for fiscal year
 6 1996 to make a further downpayment toward a balanced
 7 budget, and for other purposes” (Public Law 104-134;
 8 110 Stat. 1321-200; 16 U.S.C. 46016a). Paragraph (1)
 9 of subsection (d) of such section 315 shall apply to the
 10 fees imposed under this Act in the same manner as such
 11 paragraph applies to amounts collected under section 315.

12 (e) **PENALTY.**—If the Secretary finds that any person
 13 has violated the regulations under subsection (a), the Sec-
 14 retary may, after notice and opportunity for a hearing on
 15 the record, impose a civil penalty on such person in an
 16 amount not in excess of 200 percent of the fee that would
 17 have been collected if such person had complied with such
 18 regulations.

19 (f) **DEFINITION.**—For purposes of this Act, the term
 20 “commercial purposes” shall have such meaning as the
 21 Secretary shall by rule prescribe, and shall include, but
 22 not be limited to, advertising.

23 **SECTION 1. FEE AUTHORITY AND REPEAL OF PROHIBITION.**

24 (a) **AUTHORITY.**—

1 (1) *IN GENERAL.*—*The Secretary of the Interior*
2 *(in this section referred to as the “Secretary”)* *may*
3 *permit, under terms and conditions considered nec-*
4 *essary by the Secretary, the use of lands and facilities*
5 *administered by the Secretary for the making of any*
6 *motion picture, television production, soundtrack, or*
7 *similar project, for commercial purposes, if the Sec-*
8 *retary determines that such use is appropriate and*
9 *will not impair the values and resources of the lands*
10 *and facilities.*

11 (2) *FEEES.*—(A) *Any permit under this section*
12 *shall require the payment of fees to the Secretary in*
13 *an amount determined to be appropriate by the Sec-*
14 *retary sufficient to provide a fair return to the gov-*
15 *ernment in accordance with subparagraph (B), except*
16 *as provided in subparagraph (C). The amount of the*
17 *fee shall be not less than the direct and indirect costs*
18 *to the Government for processing the application for*
19 *the permit and the use of lands and facilities under*
20 *the permit, including any necessary costs of cleanup*
21 *and restoration, except as provided in subparagraph*
22 *(C).*

23 (B) *The authority of the Secretary to establish*
24 *fees under this paragraph shall include, but not be*
25 *limited to, authority to issue regulations that estab-*

1 *lish a schedule of rates for fees under this paragraph*
2 *based on such factors as—*

3 *(i) the number of people on site under a*
4 *permit;*

5 *(ii) the duration of activities under a per-*
6 *mit;*

7 *(iii) the conduct of activities under a per-*
8 *mit in areas designated by statute or regulations*
9 *as special use areas, including wilderness and*
10 *research natural areas; and*

11 *(iv) surface disturbances authorized under a*
12 *permit.*

13 *(C) The Secretary may, on a case-by-case basis,*
14 *charge a fee below the amount referred to in subpara-*
15 *graph (A) if the activity for which the fee is charged*
16 *provides clear educational or interpretive benefits for*
17 *the Department of the Interior.*

18 *(3) BONDING AND INSURANCE.—The Secretary*
19 *may require a bond, insurance, or such other means*
20 *as may be necessary to protect the interests of the*
21 *United States in activities arising under such a per-*
22 *mit.*

23 *(4) REGULATIONS.—(A) The Secretary shall*
24 *issue regulations implementing this subsection by not*

1 *later than 180 days after the date of the enactment*
2 *of this Act.*

3 *(B) Within 3 years after the date of enactment*
4 *of this Act, the Secretary shall review and, as appro-*
5 *priate, revise regulations issued under this para-*
6 *graph. After that time, the Secretary shall periodi-*
7 *cally review the regulations and make necessary*
8 *changes.*

9 *(b) EXEMPTION FROM FEES.—No fee shall be collected*
10 *under subsection (a) for (A) any bona fide newsreel or news*
11 *television production or (B) still photography, except where*
12 *the photography involves product or service advertisements*
13 *and the use of models, sets, or props, or when such photog-*
14 *raphy could result in damage to park resources or signifi-*
15 *cant disruption of normal visitor uses.*

16 *(c) EXISTING REGULATIONS.—The prohibition on fees*
17 *set forth in paragraph (1) of section 5.1(b) of title 43, Code*
18 *of Federal Regulations, shall cease to apply upon the effec-*
19 *tive date of regulations under subsection (a). Nothing in*
20 *this section shall be construed to affect the regulations set*
21 *forth in part 5 of such title, other than paragraph (1) there-*
22 *of.*

23 *(d) PROCEEDS.—Amounts collected as fees under this*
24 *section shall be available for expenditure without further*
25 *appropriation and shall be distributed and used, without*

1 *fiscal year limitation, in accordance with the formula and*
2 *purposes established for the Recreational Fee Demonstra-*
3 *tion Program under section 315 of Public Law 104–134.*

4 (e) *PENALTY.*—A person convicted of violating any
5 *regulation issued under subsection (a) shall be fined in ac-*
6 *cordance with title 18, United States Code, or imprisoned*
7 *for not more than 6 months, or both, and shall be ordered*
8 *to pay all costs of the proceedings.*

9 (f) *DEFINITION.*—For purposes of this section, the term
10 *“commercial purposes” shall have such meaning as the Sec-*
11 *retary shall by rule prescribe, and shall include, but not*
12 *be limited to, advertising.*

13 (g) *EFFECTIVE DATE.*—This section and the regula-
14 *tions issued under this section shall become effective 180*
15 *days after the date of the enactment of this Act, except that*
16 *this subsection and the authority of the Secretary to issue*
17 *regulations under this section shall be effective on the date*
18 *of the enactment of this Act.*

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